

The Hon. James L. Robart

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

AUBRY MCMAHON,

Plaintiff,

v.

WORLD VISION INC.,

Defendant.

Case No. 2:21-cv-00920-JLR

**COMBINED JOINT STATUS REPORT
AND DISCOVERY PLAN**

Pursuant to the Court's Order entered July 22, 2021, Dkt. No. 9, the parties submit this Combined Joint Status Report and Discovery Plan.

1. Nature & Complexity:

This is a civil action in which Plaintiff alleges discrimination (rescission of an offer of employment) by Defendant on the basis of her sex (female), marital status (married to a person of the same sex) and sexual orientation (gay). Defendant denies Plaintiff's liability and damages claims and asserts federal and state constitutional and statutory exemptions, exceptions, and defenses for Defendant as a religious organization and for Defendant's religious beliefs and exercise. The parties believe this will be a case of somewhat advanced complexity given the legal questions presented.

2. Proposed deadline for joining additional parties:

September 30, 2021.

1 3. Consent to a Magistrate Judge:

2 **No.**

3 4. Fed. R. Civ. P. 26(f)(3)-related topics:

4 (A) initial disclosures: **8/19/2021.**

5 (B) subjects, timing, and potential phasing of discovery: **The parties anticipate**
6 **discovery on the issues of liability, Defendant's defenses, and Plaintiff's alleged damages.**
7 **The parties do not believe there are any special needs for this case with respect to**
8 **discovery.**

9 (C) electronically stored information: **The parties do not anticipate any issues**
10 **related to obtaining electronically stored information ("ESI") and do not currently believe**
11 **that ESI will be a significant element in this action. When ESI is responsive to a discovery**
12 **request or appropriately the subject of mandatory disclosure, the Parties agree that**
13 **responsive ESI will be provided consistent with the Model Protocol.**

14 (D) privilege issues: **The parties are not aware of any privilege-related issues**
15 **that warrant Court intervention at this time.**

16 (E) proposed limitations on discovery: **The parties do not presently foresee**
17 **any limitations on discovery but may engage the Court if an issue arises.**

18 (F) the need for any discovery orders: **The parties anticipate submitting a**
19 **stipulated Fed. R. Evid. 502(b) order to the Court. The parties will discuss whether there**
20 **is a need to enter into a protective order based on the W.D. Wash. model.**

21 5. Local Civil Rule 26(f)(1)-related topics:

22 (A) prompt case resolution: **The parties discussed resolution both before and**
23 **at their Rule 26(f) conference and agreed to continue discussing potential resolution going**
24 **forward.**

(B) alternative dispute resolution: **The parties have agreed to explore the**
topic of alternative dispute resolution as the case progresses.

(C) related case: **None.**

(D) discovery management: **The parties agree to follow the discovery plan set forth herein.**

(E) anticipated discovery sought: **The parties anticipate discovery on the issues of liability, Defendant's defenses, and Plaintiff's alleged damages.**

(F) phasing motions: **Defendant has raised a number of constitutional and statutory defenses. After sufficient factual development, the parties may bring dispositive motions addressing those defenses well in advance of the dispositive motions deadline.**

(G) preservation of discoverable information: **Counsel have instructed their clients to preserve all potential evidence.**

(H) privilege issues: **The parties are not aware of any privilege-related issues that warrant Court intervention at this time. The parties anticipate submitting a stipulated Fed. R. Evid. 502(b) order to the Court.**

(I) model protocol for discovery of ESI: **When ESI is responsive to a discovery request or appropriately the subject of mandatory disclosure, the Parties agree that responsive ESI will be provided consistent with the Model Protocol.**

(J) alternatives to model protocol: **N/A**

6. The date by which discovery can be completed:

120 days before trial.

7. Whether the case should be bifurcated by trying the liability issues before the damages issues, or bifurcated in any other way:

Plaintiff objects to bifurcation. Defendant reserves the right to seek bifurcation of punitive damages.

8. Whether the pretrial statements and pretrial order called for by Local Civil Rules 16(e), (h), (i), and k, and 16.1 should be dispensed with in whole or in part for the sake of economy:

1 **No.**

2 9. Whether the parties intend to utilize the Individualized Trial Program set
3 forth in Local Civil Rule 39.2 or any ADR options set forth in Local Civil
4 Rule 39.1:

5 **No as to the Individual Trial Program. The parties have agreed to explore**
6 **the topic of alternative dispute resolution as the case progresses.**

7 10. Any other suggestions for shortening or simplifying the case:

8 **None at this time.**

9 11. The date the case will be ready for trial:

10 **September 2022.**

11 12. Whether the trial will be jury or non-jury:

12 **Jury.**

13 13. The number of trial days required:

14 **Two to three.**

15 14. The names, addresses, and telephone numbers of all trial counsel:

16 *Attorneys for Plaintiff:*

17 FRANK FREED SUBIT & THOMAS LLP
18 Michael C. Subit, WSBA No. 29189
19 705 Second Avenue, Suite 1200
20 Seattle, Washington 98104
21 Phone: (206) 682-6711

22 NISAR LAW GROUP, P.C.
23 Casimir Wolnowski, *admitted pro hac vice*
24 One Grand Central Place
 60 East 42nd Street, Suite 4600
 New York, NY 10165
 Direct: (646) 889-1007

Attorneys for Defendant:

 ELLIS, LI & McKINSTRY PLLC
 By: Nathaniel L. Taylor
 Nathaniel L. Taylor, WSBA No. 27174

1 Abigail J. St. Hilaire, WSBA No. 48194
1700 Seventh Avenue, Suite 1810
2 Seattle, WA 98101-1820
Telephone: (206) 682-0565
3 Fax: (206) 625-1052

4 GAMMON & GRANGE, P.C.
Scott J. Ward, VSB #37758, *admitted pro hac vice*
5 J. Matthew Szymanski, VSB # 33150, *admitted pro hac vice*
8280 Greensboro Drive, # 140
6 McLean, Virginia 22102
Telephone: (703) 761-5012
7 Fax: (703) 761-5030

8
15. The dates on which the trial counsel may have complications to be considered in
9 setting a trial date:

10 **Plaintiff's counsel Michael Subit has a trial before Judge Pechman in June 2022.**
11 **He is waiting on a trial date from Judge Lasnik that he anticipates will also be in the**
12 **summer of 2022. Plaintiff's counsel Casimir Wolnowski anticipates a trial taking place**
13 **some time in the first two quarters of 2022 at the latest. Defendant's counsel Scott Ward**
14 **has conflicting commitments for the weeks of June 13-17, 2022, and August 22-26, 2022.**

15 16. When service will be affected on Defendant:

16 **Defendant has been served.**

17 17. Whether any party wishes a pretrial FRCP 16 conference (and if so, whether in-
18 person or via telephone):

19 **Not at the present time but the parties might revisit this issue as the case**
20 **progresses.**

21 18. The date(s) that each and every nongovernmental corporate party filed its
22 disclosure statement:

23 **Defendant filed this on July 21, 2021.**

24 **////**

////

1 RESPECTFULLY SUBMITTED this 25th day of August, 2021.

2 FRANK FREED SUBIT & THOMAS LLP

3 By: /s/ Michael C. Subit
4 Michael C. Subit, WSBA No. 29189
5 705 Second Avenue, Suite 1200
6 Seattle, Washington 98104
7 Phone: (206) 682-6711
8 Fax: (206) 682-0401
9 Email: msubit@frankfreed.com

7 NISAR LAW GROUP, P.C.

8 By : /s/ Casimir Wolnowski
9 Casimir Wolnowski, *admitted pro hac vice*
10 One Grand Central Place
11 60 East 42nd Street, Suite 4600
12 New York, NY 10165
13 Direct: (646) 889-1007
14 Fax: (516) 604-0157
15 Email : cwolnowski@nisarlaw.com

13 *Attorneys for Plaintiff*

14 GAMMON & GRANGE, P.C.

15 By: /s/ Scott J. Ward
16 Scott J. Ward, *admitted pro hac vice*
17 J. Matthew Szymanski, *admitted pro hac vice*
18 8280 Greensboro Drive, Suite 140
19 McLean, VA 22102
20 Ph: (703) 761-5012
21 Email: SJW@GG-Law.com

19 *Attorneys for Defendants*

CERTIFICATE OF SERVICE

I hereby certify that on August 25, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel/parties of record. I hereby certify that no other parties are to receive notice.

DATED at Seattle, Washington on this 25th day of August 2021.

/s/Sarah Gunderson

Sarah Gunderson